

House Bill 237 (AS PASSED HOUSE AND SENATE)

By: Representatives Martin of the 47th, Stephens of the 164th, Lewis of the 15th, Watson of the 91st, Royal of the 171st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to
2 exemptions from sales and use tax, so as to change certain provisions regarding exemptions
3 with respect to the sale of certain manufacturing machinery or equipment, certain primary
4 handling equipment, certain aircraft machinery or equipment, certain parts, machinery
5 clothing, molds, dies, or tooling, and certain air or water pollution eliminating machinery and
6 equipment; to provide an effective date; to provide for applicability; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from
11 sales and use tax, is amended by revising paragraphs (34), (34.1), (34.2), (34.3), and (36) as
12 follows:

13 "(34) The sale of the following types of manufacturing machinery:

14 (A) Machinery or equipment which is ~~used directly in~~ necessary and integral to the
15 manufacture of tangible personal property when the machinery or equipment is bought
16 to replace or upgrade machinery or equipment in a manufacturing plant presently
17 existing in this state and machinery or equipment components which are purchased to
18 upgrade machinery ~~used directly in~~ or equipment which is necessary and integral to the
19 manufacture of tangible personal property in a manufacturing plant;

20 (B) Machinery or equipment which is ~~used directly in~~ necessary and integral to the
21 manufacture of tangible personal property when the machinery or equipment is
22 ~~incorporated~~ is used for the first time in a new manufacturing plant located in this state;

23 (C) Machinery or equipment which is ~~used directly in~~ necessary and integral to the
24 manufacture of tangible personal property when the machinery or equipment is
25 ~~incorporated~~ is used as additional machinery or equipment for the first time ~~into~~ in a
26 manufacturing plant presently existing in this state; and

1 (D) Any person making a sale of machinery or equipment for the purpose specified in
2 subparagraph (B) of this paragraph shall collect the tax imposed on the sale by this
3 article unless the purchaser furnishes him with a certificate issued by the commissioner
4 certifying that the purchaser is entitled to purchase the machinery or equipment without
5 paying the tax. As a condition precedent to the issuance of the certificate, the
6 commissioner, at ~~his~~ the commissioner's discretion, may require a good and valid bond
7 with a surety company authorized to do business in this state as surety or may require
8 legal securities, in an amount fixed by the commissioner, conditioned upon payment by
9 the purchaser of all taxes due under this article in the event it should be determined that
10 the sale fails to meet the requirements of this subparagraph;

11 (34.1)(A) The sale of primary material handling equipment which is used ~~directly~~ for
12 the handling and movement of tangible personal property and racking systems used for
13 the conveyance and storage of tangible personal property in a warehouse or distribution
14 facility located in this state when such equipment is either part of an expansion worth
15 \$5 million or more of an existing warehouse or distribution facility or part of the
16 construction of a new warehouse or distribution facility where the total value of all real
17 and personal property purchased or acquired by the taxpayer for use in the warehouse
18 or distribution facility is worth \$5 million or more.

19 (B) In order to qualify for the exemption provided for in subparagraph (A) of this
20 paragraph, a warehouse or distribution facility may not make retail sales from such
21 facility to the general public if the total of the retail sales equals or exceeds 15 percent
22 of the total revenues of the warehouse or distribution facility. If retail sales are made
23 to the general public by a warehouse or distribution facility and at any time the total of
24 the retail sales equals or exceeds 15 percent of the total revenues of the facility, the
25 taxpayer will be disqualified from receiving such exemption as of the date such 15
26 percent limitation is met or exceeded. The taxpayer may be required to repay any tax
27 benefits received under subparagraph (A) of this paragraph on or after that date plus
28 penalty and interest as may be allowed by law;:

29 (34.2)(A) The sale or use of machinery or equipment, or both, which is used ~~directly~~
30 in the remanufacture of aircraft engines or aircraft engine parts or components in a
31 remanufacturing facility located in this state. For purposes of this paragraph,
32 'remanufacture of aircraft engines or aircraft engine parts or components' means the
33 substantial overhauling or rebuilding of aircraft engines or aircraft engine parts or
34 components.

35 (B) Any person making a sale of machinery or equipment, or both, for the
36 remanufacture of aircraft engines or aircraft engine parts or components shall collect
37 the tax imposed on the sale by this article unless the purchaser furnishes a certificate

1 issued by the commissioner certifying that the purchaser is entitled to purchase the
2 machinery or equipment without paying the tax;

3 (34.3)(A) The sale or use of repair or replacement parts, machinery clothing or
4 replacement machinery clothing, molds or replacement molds, dies or replacement dies,
5 waxes, and tooling or replacement tooling for machinery ~~used directly in~~ which is
6 necessary and integral to the manufacture of tangible personal property in a
7 manufacturing plant presently existing in this state.

8 ~~(B) The exemption provided for in this paragraph shall apply to that portion of the~~
9 ~~sales price of each such part, item of machinery clothing, mold, die, or tool which does~~
10 ~~not exceed \$150,000.00.~~

11 ~~(C) The exemption provided for in this paragraph shall be applicable to all calendar~~
12 ~~years beginning on or after January 1, 2001, as follows:~~

13 ~~(i) At the rate of 20 percent of the total sale or use as provided in subparagraph (A)~~
14 ~~of this paragraph for the calendar year beginning January 1, 2001;~~

15 ~~(ii) At the rate of 40 percent of the total sale or use as provided in subparagraph (A)~~
16 ~~of this paragraph for the calendar year beginning January 1, 2002;~~

17 ~~(iii) At the rate of 60 percent of the total sale or use as provided in subparagraph (A)~~
18 ~~of this paragraph for the calendar year beginning January 1, 2003;~~

19 ~~(iv) At the rate of 80 percent of the total sale or use as provided in subparagraph (A)~~
20 ~~of this paragraph for the calendar year beginning January 1, 2004; and~~

21 ~~(v) At the rate of 100 percent of the total sale or use as provided in subparagraph (A)~~
22 ~~of this paragraph for the calendar year beginning January 1, 2005, and for each~~
23 ~~calendar year thereafter.~~

24 ~~(D)~~(B) The commissioner shall promulgate rules and regulations to implement and
25 administer this paragraph;"

26 "(36)(A) The sale of machinery and equipment and any repair, replacement, or
27 component parts for such machinery and equipment which is ~~incorporated into any~~
28 ~~facility and~~ used for the primary purpose of reducing or eliminating air or water
29 pollution;

30 (B) Any person making a sale of machinery and equipment or repair, replacement, or
31 component parts for such machinery and equipment for the purposes specified in this
32 paragraph shall collect the tax imposed on the sale by this article unless the purchaser
33 furnishes him with a certificate issued by the commissioner certifying that the purchaser
34 is entitled to purchase the machinery and equipment or repair, replacement, or
35 component parts for such machinery and equipment without paying the tax;"

1 **SECTION 2.**

2 (a) This Act shall become effective on January 1, 2009.

3 (b) Tax, penalty, and interest liabilities and refund eligibility under paragraph (34.3) of Code
4 Section 48-8-3 of the Official Code of Georgia Annotated, as amended by Section 1 of this
5 Act, for any period prior to January 1, 2009, shall not be affected by the passage of this Act
6 and shall continue to be governed by the provisions of said paragraph as it existed
7 immediately prior to January 1, 2009.

8 **SECTION 3.**

9 All laws and parts of laws in conflict with this Act are repealed.